

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation	)	
Against:	)	
	)	
	)	
<b>ALLAN J. T. YIN, M.D.</b>	)	File No. 05-2008-191082
	)	
Physician's and Surgeon's	)	
Certificate No. G 13309	)	
	)	
Respondent	)	
_____	)	


**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on **December 10, 2010.**

IT IS SO ORDERED **November 12, 2010.**

MEDICAL BOARD OF CALIFORNIA

By:   
\_\_\_\_\_  
**Hedy Chang**  
Chair, Panel B

1 EDMUND G. BROWN JR.  
2 Attorney General of California  
3 KLINT JAMES MCKAY  
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11 *Attorneys for Complainant*

12 **BEFORE THE**  
13 **MEDICAL BOARD OF CALIFORNIA**  
14 **DEPARTMENT OF CONSUMER AFFAIRS**  
15 **STATE OF CALIFORNIA**

16 In the Matter of the Accusation Against:

17 **ALLAN J.T. YIN, M.D.**  
18 **2717 Skylark Circle**  
19 **Costa Mesa, CA 92626**

20 Physician's and Surgeon's Certificate

21 No. G 13309

22 Respondent.

Case No. 052008-191082

OAH No. L2009100918

23 **STIPULATED SETTLEMENT AND**  
24 **DISCIPLINARY ORDER**

25 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
26 interest and the responsibility of the Medical Board of California of the Department of Consumer  
27 Affairs ("Board"), the parties hereby agree to the following Stipulated Settlement and  
28 Disciplinary Order which will be submitted to the Board for approval and adoption as the final  
disposition of the Accusation.

**PARTIES**

1. Linda K. Whitney ("Complainant") is the Interim Executive Director of the  
Board, and is the successor to Barbara Johnston, the Board's former Executive Director and the  
original Complainant in this matter. Ms. Johnston brought this action solely in her official

1 capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State  
2 of California, by Klint James McKay, Deputy Attorney General.

3 2. Respondent Allan J.T. Yin, M.D., ("Respondent") is represented in this  
4 proceeding by attorney Erin Muellenberg, whose address is Reback McAndrews et al., LLP, 215  
5 N "D" St., Suite 303, San Bernardino, CA 92401.

6 3. On or about June 19, 1967, the Board issued Physician and Surgeon's  
7 Certificate No. G 13309 to Respondent. Said Physician and Surgeon's Certificate was in full  
8 force and effect at all times relevant to the charges brought in the Accusation referenced below  
9 and will expire on July 31, 2010, unless renewed.

#### 10 **JURISDICTION**

11 4. Accusation No. 05-2008-191082 was filed before the Board, and is currently  
12 pending against Respondent. The Accusation and all other statutorily required documents were  
13 properly served on Respondent on August 28, 2009. Respondent timely filed his Notice of  
14 Defense contesting the Accusation. A copy of Accusation No. 05-2008-191082 is attached as  
15 Exhibit A and incorporated herein by reference.

#### 16 **ADVISEMENT AND WAIVERS**

17 5. Respondent has carefully read, fully discussed with counsel, and understands  
18 the charges and allegations in Accusation No. 05-2008-191082. Respondent has also carefully  
19 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
20 Disciplinary Order.

21 6. Respondent is fully aware of his legal rights in this matter, including the right to  
22 a hearing on the charges and allegations in the Accusation; the right to be represented by counsel  
23 at his own expense; the right to confront and cross-examine the witnesses against him; the right to  
24 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
25 the attendance of witnesses and the production of documents; the right to reconsideration and  
26 court review of an adverse decision; and all other rights accorded by the California  
27 Administrative Procedure Act and other applicable laws.  
28

Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

### **CULPABILITY**

7. Respondent admits each and every charge and allegation in the Accusation.

8. Respondent agrees that his Physician and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

### **CONTINGENCY**

9. This Stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this Stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the Stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the Stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this Stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

10. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereon, shall have the same force and effect as the originals.

In consideration of the foregoing admissions and Stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order.

### **DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Physician and Surgeon's Certificate No. G 13309 issued to Respondent is revoked. However, the revocation is stayed and Respondent is placed on probation for thirty five (35) months from the effective date of the Board Order adopting this Stipulation.

1           A.    EDUCATION COURSE   Within 60 calendar days of the effective date of this  
2   Decision, and on an annual basis thereafter, respondent shall submit to the Division or its  
3   designee for its prior approval educational program(s) or course(s) which shall not be less than 40  
4   hours per year, until such time as Respondent successfully completes probation. The educational  
5   program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge  
6   and shall be Category I certified, limited to classroom, conference, or seminar settings. The  
7   educational program(s) or course(s) shall be at respondent's expense and shall be in addition to  
8   the Continuing Medical Education (CME) requirements for renewal of licensure. Following the  
9   completion of each course, the Board or its designee may administer an examination to test  
10   respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours  
11   of continuing medical education annually to the Board, of which 40 hours were in satisfaction of  
12   this condition.

13           B.   NOTIFICATION   Prior to engaging in the practice of medicine, the  
14   Respondent shall provide a true copy of the Decision and Accusation to the Chief of Staff or the  
15   Chief Executive Officer at every hospital where privileges or membership are extended to  
16   Respondent, at any other facility where Respondent engages in the practice of medicine,  
17   including all physician and locum tenens registries or other similar agencies, and to the Chief  
18   Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
19   Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
20   calendar days.

21                   This condition shall apply to any change(s) in hospitals, other facilities or  
22   insurance carrier.

23           C.   SUPERVISION OF PHYSICIAN ASSISTANTS   During probation,  
24   Respondent is prohibited from supervising physician assistants.

25           D.   OBEY ALL LAWS   Respondent shall obey all federal, state and local laws, all  
26   rules governing the practice of medicine in California, and remain in full compliance with any  
27   court ordered criminal probation, payments and other orders.  
28

1 E. QUARTERLY DECLARATIONS Respondent shall submit quarterly  
2 declarations under penalty of perjury on forms provided by the Board, stating whether there has  
3 been compliance with all the conditions of probation. Respondent shall submit quarterly  
4 declarations not later than 10 calendar days after the end of the preceding quarter.

5 F. PROBATION UNIT COMPLIANCE

6 i) Respondent shall comply with the Board's probation unit. Respondent  
7 shall, at all times, keep the Board informed of Respondent's business and residence addresses.  
8 Changes of such addresses shall be immediately communicated in writing to the Board or its  
9 designee. Under no circumstances shall a post office box serve as an address of record, except as  
10 allowed by Business and Professions Code section 2021(b).

11 ii) Respondent shall not engage in the practice of medicine in Respondent's  
12 place of residence. Respondent shall maintain a current and renewed California physician's and  
13 surgeon's license.

14 (iii) Respondent shall immediately inform the Board, or its designee, in  
15 writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated  
16 to last, more than 30 calendar days.

17 G. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall be  
18 available in person for interviews either at Respondent's place of business or at the probation unit  
19 office, with the Board or its designee, upon request at various intervals, and either with or without  
20 prior notice throughout the term of probation.

21 H. RESIDING OR PRACTICING OUT-OF-STATE

22 i) In the event Respondent should leave the State of California to reside or  
23 to practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to  
24 the dates of departure and return. Non-practice is defined as any period of time exceeding 30  
25 calendar days in which Respondent is not engaging in any activities defined in Sections 2051 and  
26 2052 of the Business and Professions Code.

27 ii) All time spent in an intensive training program outside the State of  
28 California which has been approved by the Board or its designee shall be considered as time spent

1 in the practice of medicine within the State. A Board-ordered suspension of practice shall not be  
2 considered as a period of non-practice.

3           iii) Periods of temporary or permanent residence or practice outside  
4 California will not apply to the reduction of the probationary term. Periods of temporary or  
5 permanent residence or practice outside California will relieve Respondent of the responsibility to  
6 comply with the probationary terms and conditions with the exception of this condition and the  
7 following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and  
8 Cost Recovery.

9           iv) Respondent's license shall be automatically cancelled if Respondent's  
10 periods of temporary or permanent residence or practice outside California total two years.  
11 However, Respondent's license shall not be cancelled as long as Respondent is residing and  
12 practicing medicine in another state of the United States and is on active probation with the  
13 medical licensing authority of that state, in which case the two year period shall begin on the date  
14 probation is completed or terminated in that state.

15           I. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

16           i) In the event Respondent resides in the State of California and for any  
17 reason Respondent stops practicing medicine in California, Respondent shall notify the Board or  
18 its designee in writing within 30 calendar days prior to the dates of non-practice and return to  
19 practice.

20           ii) Any period of non-practice within California, as defined in this condition,  
21 will not apply to the reduction of the probationary term and does not relieve Respondent of the  
22 responsibility to comply with the terms and conditions of probation. Non-practice is defined as  
23 any period of time exceeding 30 calendar days in which Respondent is not engaging in any  
24 activities defined in sections 2051 and 2052 of the Business and Professions Code.

25           iii) All time spent in an intensive training program which has been approved  
26 by the Board or its designee shall be considered time spent in the practice of medicine. For  
27 purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with  
28 any other condition of probation, shall not be considered a period of non-practice.

iv) Respondent's license shall be automatically canceled if Respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

J. COMPLETION OF PROBATION Respondent shall comply with all financial obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

K. VIOLATION OF PROBATION Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

L. LICENSE SURRENDER

i) Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request the voluntary surrender of Respondent's license.

ii) The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances.

iii) Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license shall be deemed disciplinary action.

iv) If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.



1 M. PROBATION MONITORING COSTS Respondent shall pay the costs  
2 associated with probation monitoring each and every year of probation, as designated by the  
3 Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical  
4 Board of California and delivered to the Board or its designee no later than January 31 of each  
5 calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of  
6 probation.

7 N. STATUS OF LICENSE

8 i) Respondent's physician and surgeon's certificate is presently suspended.  
9 which, Respondent acknowledges and agrees, precludes him from practicing medicine.  
10 Nonetheless, all terms and conditions of this Stipulated Decision and Disciplinary Order shall  
11 remain in full force and effect (including the automatic cancellation provision for two years of  
12 nonpractice in California).

13 ii) However, all terms and conditions which require and presuppose the  
14 authority to practice medicine to fulfill are tolled, including but not limited to Conditions B  
15 (Notification), C (Physician Assistants), E (Quarterly Declarations), G (Interview with Board or  
16 Designee), and M (Probation Monitoring Costs). Until and unless Respondent's license is  
17 canceled, Condition A (Education Course) shall remain in effect, however, and is not tolled.

18 iii) If Respondent wishes to resume the practice of medicine and return to  
19 active status at any time before his certificate would be canceled for failure to practice  
20 (Condition I), all conditions of probation will be imposed effective the date of return to active  
21 status.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Erin Muellenberg. I understand the Stipulation and the effect it will have on my Physician and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: April 20, 2010

Allen J.T. Yin M.D.  
ALLEN J.T. YIN, M.D., Respondent

I have read and fully discussed the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order with Respondent Allen J.T. Yin, M.D. I approve its form and content.

DATED: April 21, 2010

Erin Muellenberg  
ERIN MUELLENBERG,  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 21 April, 2010

EDMUND G. BROWN JR., Attorney General  
of the State of California

By: \_\_\_\_\_

KLINT JAMES McKAY,  
Deputy Attorney General,  
Attorneys for Complainant

**Exhibit A**

**Accusation No. 05-2008-191082**

EDMUND G. BROWN JR., Attorney General  
of the State of California  
KLINT JAMES McKAY, State Bar No. 120881  
Deputy Attorney General  
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Attorneys for Complainant

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 05-08-191082

ALLAN J. T. YIN, M.D.

**A C C U S A T I O N**

2717 Skylark Circle  
Costa Mesa, California 92626

Physician's & Surgeon's Certificate G13309,

Respondent.

Complainant alleges:

**PARTIES**

1. Barbara Johnston (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California (Board).
2. On or about June 19, 1967, the Board issued Physician's and Surgeon's certificate number G13309 to Allan J. T. Yin, M.D. (Respondent). Said license was in full force and effect at all times relevant and will expire on July 31, 2010, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2220 of the Code states:

1                   “Except as otherwise provided by law, the Division of Medical  
2                   Quality<sup>1</sup> may take action against all persons guilty of violating this chapter. The  
3                   division shall enforce and administer this article as to Physician’s and Surgeon’s  
4                   certificate holders, and the division shall have all the powers granted in this  
5                   chapter for these purposes including, but not limited to:

6                   “(a) Investigating complaints from the public, from other licensees,  
7                   from health care facilities, or from a division of the board that a physician and  
8                   surgeon may be guilty of unprofessional conduct. The board shall investigate the  
9                   circumstances underlying any report received pursuant to Section 805 within 30  
10                  days to determine if an interim suspension order or temporary restraining order  
11                  should be issued. The board shall otherwise provide timely disposition of the  
12                  reports received pursuant to Section 805.

13                  “(b) Investigating the circumstances of practice of any physician and  
14                  surgeon where there have been any judgments, settlements, or arbitration awards  
15                  requiring the physician and surgeon or his or her professional liability insurer to pay an  
16                  amount in damages in excess of a cumulative total of thirty thousand dollars (\$30,000)  
17                  with respect to any claim that injury or damage was proximately caused by the physician's  
18                  and surgeon's error, negligence, or omission.

19                  “(c) Investigating the nature and causes of injuries from cases  
20                  which shall be reported of a high number of judgments, settlements, or arbitration  
21                  awards against a physician and surgeon.

22                  5.       Section 2227 of the Code states:

23                  “(a)    A licensee whose matter has been heard by an  
24                  administrative law judge of the Medical Quality Hearing Panel as designated in

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25  
26                  1. California Business and Professions Code section 2002, as amended and effective  
27                  January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in  
28                  the State Medical Practice Act (Cal. Bus. & Prof. Code, §§§§ 2000, et seq.) means the “Medical  
                    Board of California,” and references to the “Division of Medical Quality” and “Division of  
                    Licensing” in the Act or any other provision of law shall be deemed to refer to the Board.

1 Section 11371 of the Government Code, or whose default has been entered, and  
2 who is found guilty, or who has entered into a stipulation for disciplinary action  
3 with the division, may, in accordance with the provisions of this chapter:

4 “(1) Have his or her license revoked upon order of the division.

5 “(2) Have his or her right to practice suspended for a period not  
6 to exceed one year upon order of the division.

7 “(3) Be placed on probation and be required to pay the costs of  
8 probation monitoring upon order of the division.

9 “(4) Be publicly reprimanded by the division.

10 “(5) Have any other action taken in relation to discipline as part  
11 of an order of probation, as the division or an administrative law judge may deem  
12 proper.

13 “(b) Any matter heard pursuant to subdivision (a), except for  
14 warning letters, medical review or advisory conferences, professional competency  
15 examinations, continuing education activities, and cost reimbursement associated  
16 therewith that are agreed to with the division and successfully completed by the  
17 licensee, or other matters made confidential or privileged by existing law, is  
18 deemed public, and shall be made available to the public by the board pursuant to  
19 Section 803.1.”

20 6. Section 2228 of the Code states:

21 “The authority of the board or a division of the board or the California Board of  
22 Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not  
23 limited to, the following:

24 “(a) Requiring the licensee to obtain additional professional  
25 training and to pass an examination upon the completion of the training. The  
26 examination may be written or oral, or both, and may be a practical or clinical  
27 examination, or both, at the option of the board or division or the administrative  
28 law judge.

1                   “(b)    Requiring the licensee to submit to a complete diagnostic  
2 examination by one or more physicians and surgeons appointed by the division. If  
3 an examination is ordered, the board or division shall receive and consider any  
4 other report of a complete diagnostic examination given by one or more  
5 physicians and surgeons of the licensee's choice.

6                   “(c)    Restricting or limiting the extent, scope, or type of practice  
7 of the licensee, including requiring notice to applicable patients that the licensee is  
8 unable to perform the indicated treatment, where appropriate.

9                   “(d)    Providing the option of alternative community service in  
10 cases other than violations relating to quality of care, as defined by the Division of  
11 Medical Quality.”

12               4.       Section 2234 of the Code states:

13               "The Division of Medical Quality shall take action against any licensee who is  
14 charged with unprofessional conduct. In addition to other provisions of this article,  
15 unprofessional conduct includes, but is not limited to, the following:

16               "(a) Violating or attempting to violate, directly or indirectly, assisting in or  
17 abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5,  
18 the Medical Practice Act].

19               "(b) Gross negligence.

20               "(c) Repeated negligent acts. To be repeated, there must be two or more  
21 negligent acts or omissions. An initial negligent act or omission followed by a separate  
22 and distinct departure from the applicable standard of care shall constitute repeated  
23 negligent acts.

24               "(1) An initial negligent diagnosis followed by an act or omission medically  
25 appropriate for that negligent diagnosis of the patient shall constitute a single negligent  
26 act.

27               "(2) When the standard of care requires a change in the diagnosis, act, or  
28 omission that constitutes the negligent act described in paragraph (1), including, but not

1 limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's  
2 conduct departs from the applicable standard of care. each departure constitutes a separate  
3 and distinct breach of the standard of care.

4 "(d) Incompetence.

5 "(e) The commission of any act involving dishonesty or corruption which is  
6 substantially related to the qualifications, functions, or duties of a physician and surgeon.

7 "(f) Any action or conduct which would have warranted the denial of a  
8 certificate."

9  
10 **FIRST CAUSE FOR DISCIPLINE**

11 (Gross Negligence, Patient Danny T.)

12 5. Respondent worked as a prison physician and each of the patients  
13 described herein were prisoners at the facility in which Respondent worked. Respondent is  
14 subject to disciplinary action under section 2234(b) in that he failed to conduct appropriate tests  
15 or timely refer Patient Danny T.<sup>2</sup> to an emergency room. Danny T. ultimately died. The  
16 circumstances are as follows.

17 A. On or about November 23, 2006, Danny T. saw two nurses on two  
18 separate occasions during the evening, complaining of severe abdominal pain. Three  
19 days later, on November 26, he again came to the clinic and saw Dr. O'Brien, again  
20 complaining of abdominal pain. Dr. O'Brien examined him and noted elevated blood  
21 pressure.

22 B. The following evening, Danny T. returned to the clinic, again complaining  
23 of severe pain and was vomiting; he was also jaundiced. He indicated that the pain had  
24 been sharp and constant for three months. Respondent, who was the on call physician,  
25 ordered IM Compazine, clear liquids; he also indicated that Danny T. should see a  
26 physician in the morning.

27  
28 

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2. All patients are referenced by their first names and last initials for privacy reasons.



1 C. Approximately two hours later, Danny T. returned to the clinic, again  
2 complaining of severe epigastric pain and vomiting. No new orders were given by  
3 Respondent.

4 D About 12:30 in the morning the following day (November 28, 2006),  
5 Respondent examined Danny T. and noted, among other things, dark urine and right  
6 upper quadrant abdominal tenderness. He diagnosed acute gastritis, put Danny T. on  
7 clear liquids and ordered that he follow up with the clinic. Notwithstanding the ominous  
8 signs, Respondent did not immediately refer Danny T. to an emergency facility. Instead,  
9 he decided to wait for lab results from tests performed the day before.

10 E. At approximately 7:00 the morning of November 28, Danny T. returned to  
11 the clinic and Respondent noted stomach pain for four days (incorrectly – Danny T. had  
12 actually suffered abdominal pain much longer) with increased intensity. He further noted  
13 that his abdomen was distended and took Danny T.'s vital signs. He finally referred him  
14 to an emergency room; where pancreatitis and kidney failure were diagnosed. These  
15 conditions could not be resolved and caused the death of Danny T. approximately one  
16 week later.

17 F. Respondent should have referred Danny T. to the emergency facility on the  
18 morning of November 28, at the latest, in light of the jaundice and dark urine. This is  
19 particularly true because there was no way that Respondent could have been certain of his  
20 diagnosis of gastritis without lab tests and x rays. A simple rectal exam and test for blood  
21 should also been performed to rule out gastrointestinal bleeding. Instead, Respondent  
22 waited for Danny T. to develop an acute abdomen. Such conduct constitutes an extreme  
23 departure from the standard of care.

24  
25 **SECOND CAUSE FOR DISCIPLINE**  
26 (Repeated Negligent Acts, Patient Danny T.)

27 6. By reason of the facts set forth in the First Cause for Discipline,  
28 Respondent's license is subject to disciplinary action under section 2234(c) in that the actions of

1 Respondent with respect to patient Danny T. constitute repeated negligent actions.

2  
3 **THIRD CAUSE FOR DISCIPLINE**  
4 (Incompetence, Patient Danny T.)

5 7. By reason of the facts set forth in the First Cause for Discipline,  
6 Respondent's license is subject to disciplinary action for incompetence under section 2234(d) in  
7 that the actions of Respondent with respect to patient Danny T. constitute incompetence.

8 **FOURTH CAUSE FOR DISCIPLINE**  
9 (Gross Negligence, Patient Danny M.)

10 8. Respondent is subject to disciplinary action under section 2234(b) in that  
11 he failed to conduct appropriate tests or refer Patient Danny M. to an emergency room; Danny M.  
12 ultimately died. The circumstances are as follows.

13 A. At about 10:30 in the morning on or about September 27, 2005, Danny M.,  
14 who had a history of Hepatitis C, cirrhosis, kidney stones with lithotripsy, urethral stents  
15 and prior Staphylococcal endocarditis, saw a nurse at the prison clinic with complaints of  
16 chest pain with exertion, shortness of breath and generalized weakness. A note from that  
17 same examination reflects that Respondent reported that Danny M. had diarrhea for six  
18 days, had diminished lung sounds, a distended abdomen, and a hernia. About four hours  
19 later, there was an indication that an IV insertion was unsuccessful, and that oral  
20 hydration was given.

21 B. An untimed note in what appears to be Respondent's handwriting  
22 summarizes old lab tests and history. A note by Respondent timed at 3:12 in the  
23 afternoon of September 27, 2005, does not address the chest pain or shortness of breath.  
24 Dehydration was diagnosed and IV hydration was ordered. However, when that could not  
25 be started, oral hydration was given.

26 C. Respondent saw the patient again the following day. He noted continuing  
27 diarrhea was noted, but no lab reports are referenced in the patient's records.

28 D. As stated, the patient had a prior history of endocarditis and cirrhosis. The

1 10:30 A.M. nurse's note indicated lung sounds diminished at the bases. Danny M. could  
2 have had congestive heart failure, pleural effusion, acute coronary syndrome or other  
3 serious acute illness; however, no in depth testing was done. This type of testing could  
4 only have been performed in a hospital emergency room, since facilities at the prison are  
5 rudimentary. The patient would also have benefitted from pulse oxymetry to see if  
6 hypoxia was present. In addition, another easily obtainable piece of information in a  
7 dehydrated person would be orthostatic blood pressure and pulses, but these were not  
8 done.

9 E. On October 5, 2005, the patient presented to the clinic with altered mental  
10 status and was sent to the hospital. He expired on October 21 from respiratory, hepatic  
11 and renal failure. Respondent's failure to address Danny M.'s chest pain and shortness of  
12 breath are an extreme deviation from the standard of care.

13 **FIFTH CAUSE FOR DISCIPLINE**  
14 (Repeated Negligent Acts, Patient Danny M.)

15 9. By reason of the facts set forth in the Fourth Cause for Discipline,  
16 Respondent's license is subject to disciplinary action under section 2234(c) in that the actions of  
17 Respondent constitute repeated negligent actions .

18 **SIXTH CAUSE FOR DISCIPLINE**  
19 (Incompetence, Patient Danny M.)

20 10. By reason of the facts set forth in the Fourth Cause for Discipline,  
21 Respondent's license is subject to disciplinary action for incompetence under section 2234(d) in  
22 that the actions of Respondent constitute incompetence.

23 **SEVENTH CAUSE FOR DISCIPLINE**  
24 (Gross Negligence, Patient Dwight C.)

25 11. Respondent is subject to disciplinary action under section 2234(b) in that  
26 he failed to appropriately test, diagnose and/or treat the eye problems of patient Dwight C. The  
27 facts and circumstances are as follows.

28 A. Patient Dwight C. presented to the prison clinic on June 3, 2005. Dwight

1 C. complained that his eyes hurt, were red and that he was having trouble seeing.  
2 Respondent's note indicated that this had been going on for a week. During the exam,  
3 Respondent noted that Dwight C. had "injected sclera" (commonly known as "red eye")  
4 bilaterally (in both eyes). No visual acuity was taken, and no physical exam was  
5 recorded. The assessment was allergic conjunctivitis; the patient was given Vasocon,  
6 which is a vasoconstrictor (a drug which restricts blood flow).

7 B. On June 6, the patient returned without improvement. Again,  
8 Respondent's exam consisted of noting marked scleral injection. The medication was  
9 changed to Vasocidin, a combination of a sulfa drug and a steroid. Respondent's  
10 assessment was still allergic conjunctivitis.

11 C. On June 9, 2005, the patient again returned without improvement. Finally,  
12 Respondent took a visual acuity and recorded it as Snellen eye chart OS 20/70 and OD  
13 20/50. Dwight C.'s eyes were noted to have worse scleral injection (i.e., redness) and to  
14 be mildly tender around the orbit (the immediate vicinity of the eye). Respondent still  
15 assessed the problem as allergic conjunctivitis, and scheduled an ophthalmology consult  
16 for the following day.

17 D. The patient was thereafter seen by an ophthalmologist. However,  
18 Respondent saw the patient again on June 14, 2005; the patient by then indicated he could  
19 not see the eye chart. However, Respondent merely continued the eye drops. Another  
20 physician ultimately sent the patient to the hospital where he was diagnosed with severe  
21 pan uveitis (infection of all regions of the uvea, which is the middle layer of the eye  
22 between the cornea and the retina) in both eyes.

23 E. Respondent's care of Dwight C. constituted an extreme departure from the  
24 applicable standard of care for the reasons set forth below.

25 F. The first visit on June 3, 2005, consisted of an inadequate exam since no  
26 visual acuity was obtained in a person complaining of visual trouble. The patient  
27 complained of eye pain and that is atypical for allergic conjunctivitis. A simple  
28 vasoconstrictor is inadequate to treat allergic eye symptoms since it does not address the

1 allergy causing the redness. Respondent did not refer the patient to an ophthalmologist,  
2 despite the fact that eye pain was inconsistent with his assessment.

3 G. The June 6, 2005, visit resulted in the same diagnosis and a switch to a  
4 combination eye drop. Antibiotics are not indicated for allergic conjunctivitis. Steroid  
5 eye drops should also be used with great caution by non ophthalmologists, due to their  
6 substantial side effects and potential for causing lasting damage if misused. A visual  
7 acuity examination was still not performed, and the patient was still not referred to an  
8 ophthalmologist.

9 H. On June 14, 2005, Respondent failed to take immediate action when the  
10 patient could not see the eye chart at all; he also continued the inappropriate medication.

11 **EIGHTH CAUSE FOR DISCIPLINE**  
12 (Repeated Negligent Acts, Patient Dwight C.)

13 12. By reason of the facts set forth in the Seventh Cause for Discipline,  
14 Respondent's license is subject to disciplinary action under section 2234(c) in that the actions of  
15 Respondent with respect to the care of Dwight C. constitute repeated negligent actions.

16 **NINTH CAUSE FOR DISCIPLINE**  
17 (Incompetence, Patient Dwight.C.)

18 13. By reason of the facts set forth in the Seventh Cause for Discipline,  
19 Respondent's license is subject to disciplinary action for incompetence under section 2234(d) in  
20 that the actions of Respondent with respect to the care of Dwight C. constitute incompetence.

21  
22 **PRAYER**

23 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein  
24 alleged, and that following the hearing, the Board issue a decision:

25 1. Revoking or suspending Physician's and Surgeon's Certificate No.  
26 G13309, issued to Allan J.T. Yin, M.D.

27 2. Revoking or suspending his authority to supervise physician assistants  
28 pursuant to section 3527 of the Code;

